

DELPHI

April 24, 2007

Mr. Scott D. Reese
329 Basket Branch
Oxford, Michigan 48371

Dear Mr. Reese,

We have received your letter of April 9, 2007, and carefully reviewed it.

I.R.C. §6332(a) requires that we honor the IRS levy. Once an employer is served with a notice of levy, the employer must surrender wages or salary to the District Director on the same date that the employer would otherwise have paid the taxpayer. Treas. Reg. §301.6331-1(b). I.R.C. §6332(e) provides that if we honor the levy, we are relieved of any liability to you. I.R.C. §6332(d) provides that if we do not honor the levy, we are liable to the United States for the amount specified in the levy. The courts have consistently held that employers are not liable when they honor a levy. *See, Celauro v. U.S.*, 411 F. Supp. 2d 257 (E.D. NY 2006); *Shephard v. IRS*, 2006 U.S. Dist. Lexis 69029 (N.D. NY 2006); *Kish v. Rogers*, 2006 U.S. Dist. Lexis 81812 (S.D. TX 2006).

While we are not providing you with legal advice, the arguments you raise regarding I.R.C. §3401 have been held invalid for some time. *See, Sullivan v. U.S.*, 788 F.2d 813 (1st Cir. 1986); *Peth v. Breitzmann*, 611 F. Supp. 50 (E.D. WI 1985).

You should also note that taxpayers who pursue arguments lacking any basis can be sanctioned with penalties. *See*, I.R.C. §§6673 and 6702.

Delphi Corporation Tax Staff